

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

BARBARA REED

APPELLANT,

**v.
BOYD REED**

RESPONDENT.

DOCKET NUMBER WD76222

DATE: December 31, 2013

Appeal From:

Platte County Circuit Court
The Honorable James W. Van Amburg, Judge

Appellate Judges:

Division Four: James E. Welsh, Chief Judge, Presiding, Cynthia L. Martin, Judge and Patrick Robb, Special Judge

Attorneys:

Jonathan Sternberg and William M. Quitmeier, Kansas City, MO, for appellant.

Nancy L. Jackson, Independence, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

BARBARA REED,

APPELLANT,

v.

BOYD REED,

RESPONDENT.

No. WD76222

Platte County

Before Division Four: James E. Welsh, Chief Judge, Presiding, Cynthia L. Martin, Judge and Patrick Robb, Special Judge

Barbara Reed ("Wife") appeals from the trial court's Second Amended Judgment of Dissolution. Wife contends that the trial court erred in (1) finding that there was no financial misconduct on the part of Boyd Reed ("Husband") during their marriage and in failing to take such misconduct into account in dividing the marital estate; (2) overvaluing Wife's IRAs at their statement value rather than their lower, present value; and (3) failing to readjust its distribution of the marital estate after it allegedly revalued the marital home in an amended judgment.

AFFIRM.

Division Four holds:

(1) Husband testified that the marital debt he amassed and the withdrawals he made from his IRA were used to pay family expenses and to finish construction of a cul-de-sac in Reed Estates, a marital asset. It was within the trial court's discretion to accept Husband's testimony as credible. Wife failed to present any evidence that Husband misused any of the complained marital funds. Thus, we find no abuse of discretion in the trial court's finding that Wife failed to meet her burden of persuading the trial court that Husband committed misconduct.

(2) In valuing marital assets for division, including IRAs, tax consequences are a factor for the trial court to consider. However, the trial court is not permitted to make deductions to the marital estate for estimated tax liabilities without sufficient evidence to support the deductions. While Wife presented evidence that would support the conclusion that she would be subject to a 10 percent penalty if she immediately liquidated her IRAs, Wife presented no evidence regarding the tax rate that would be applied to the liquidated assets. Further, Wife presented no evidence from which the trial court could conclude that Wife would have to liquidate the IRAs to support her living expenses.

(3) The plain language of the Judgment and the First Amended Judgment indicated that trial court found that Lot 2 had a value of \$375,000. Though both the Judgment and the First Amended Judgment addressed the prospect of future value in the event that Lot 2 is subdivided in the future, neither the Judgment nor the First Judgment contained any express finding or conclusion that suggested the trial court factored in the future potential value of Lot 2 into its division of the marital estate. Any confusion as to the value the trial court assigned Lot 2 was erased by the Second Amended Judgment, in which the trial court clearly stated that it had not taken the potential value of Lot 2 if subdivision into consideration in dividing the marital estate.

Opinion by Cynthia L. Martin, Judge

December 31, 2013

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